

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	8:91CR83
)	
v.)	
)	
CHARLES TYRONE SMITH,)	ORDER
)	
Defendant.)	
_____)	

This matter is before the Court on defendant's motion to reconsider sentence and request for evidentiary hearing (Filing No. 454). In its previous order, the Court relied on the retroactive sentencing worksheet which indicated defendant was held responsible for more than 4.5 kilograms of crack cocaine.

After consultation with the probation office, it has been determined that defendant should be held responsible for 1.5 but less than 4.5 kilograms of crack cocaine. Pursuant to the recent amendments to the United States Sentencing Guidelines with respect to crack cocaine, his base offense level is reduced to 36, his total offense level is 40, and his criminal history category remains at II. This results in a sentencing range of 324 to 405 months. The Court finds that defendant's sentence should be reduced to three hundred twenty-four (324) months imprisonment, considering the prior computation of specific offense characteristics, adjustments, and departures. Accordingly,

IT IS ORDERED:

1) Said motion to reduce sentence is granted; the sentence of the defendant is reduced to three hundred twenty-four (324) months. He shall receive credit for time served.

2) The conditions of supervised release entered in the original judgment and committal order remain in full force and effect.

3) The balance of defendant's motion is denied.

DATED this 28th day of January, 2010.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court